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EXTRAORDINARY

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GOVERNMENT OF INDIA

MINISTRY OF LAW

New Delhi, the 6th August 1948

ORDINANCE No. XXI of 1948

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ORDINANCE

to make provision for the payment of taxes before transfers of property are recognised in certain cases.

WHEREAS an emergency has arisen which makes it necessary to make provision for the payment of taxes before transfers of property are recognised in certain cases;

Now, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Payment of Taxes (Transfer of Property) Ordinance, 1948.

(2) It extends to all the Provinces of India.

(3) It shall come into force at once in the Provinces of Bombay, West Bengal, East Punjab, Bihar, Delhi and Ajmer-Merwara, and in any other Province on such date as the Central Government may, by notification in the official Gazette, appoint.

2. Payment of taxes before registration of documents.—No registering officer, revenue officer, custodian or other officer appointed to deal with the registration or custody of, or title to, any property shall register, recognise or give effect to any document relating to property, other than agricultural land, which is required to be registered under the provisions of clause (a), clause (b), clause (c) or clause (e) of sub-section (1) of section 17 of the Indian Registration Act, 1908 (XVI of 1908), unless it is certified by the Inspecting Assistant Commissioner of Income-tax of the area in which the property is situate in respect of every person whose right, title or interest in the property is or is to be transferred, assigned, limited or extinguished under the terms of the document that—

(a) such person is not liable to assessment or taxation under the Indian Income-tax Act, 1922 (XI of 1922), the Excess Profits Tax Act, 1940 (XV of 1940), or the Business Profits Tax Act, 1947 (XXI of 1947), or

(b) he has either paid or made satisfactory provision for the payment of all existing or anticipated liabilities under any of the Acts specified in clause (a) of this section, or

(c) the Inspecting Assistant Commissioner of Income-tax is otherwise satisfied that the document may be registered, recognised or given effect to.

3. Recovery of taxes where no certificate produced.—(1) Where any right, title or interest in any immovable property, other than agricultural land, or in any movable property, other than stocks, shares and securities, is or has been transferred, assigned, limited or extinguished after the 14th day of August, 1947, the Income-tax Officer of the area in which such property is situate may at any time issue a notice to all or any of the parties to the transaction requiring them or him to produce within one month from the date of service of the notice a certificate by the Inspecting Assistant Commissioner of Income-tax of the said area in the terms mentioned in section 2.

(2) If no such certificate is produced before the Income-tax Officer, he may forward a statement to the Collector showing the existing and anticipated liabilities by way of taxes in respect of all or any of the said parties. The Collector shall thereupon proceed to recover the total amount shown in the statement as if it were an arrear of land revenue, and for the purpose of such recovery proceedings he may treat the said property as if it belonged to all or any of the persons named in the statement.

4. Effect of Ordinance over other laws.—The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

5. Bar of suits.—No suit, prosecution or other legal proceeding shall lie against the Central Government, the Provincial Government or against any Income-tax Officer or any person or authority acting under his directions or in pursuance of any claim shown in the statement forwarded to the Collector under section 3 in respect of anything which is in good faith done or intended to be done under this Act.

6. Validation of action taken under Ordinance III, 1948.—Any order made, thing done or action taken under the Transfer of Property (India) Ordinance, 1948 (III of 1948), shall for all purposes be deemed to have been made, done or taken under this Ordinance as if this Ordinance had commenced on the day such order was made, or such action was taken or such thing was done.

C. RAJAGOPALACHARI,
Governor General.

K. V. K. SUNDARAM,
Secy. to the Govt. of India.